

FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

APPELLATE DIVISION

KENNARD A. SMITH,)	
)	D.C. CRIM. APP. NO. 92-130
Appellant,)	
)	T.C. CRIM. NO. F297-91
v.)	
)	
GOVERNMENT OF THE VIRGIN ISLANDS))	
)	
Appellee.)	
_____)	

On Appeal from the Territorial Court of the Virgin Islands
Considered: April 6, 1994
Filed: April 11, 1994

BEFORE: **THOMAS K. MOORE**, Chief Judge, District Court of the Virgin Islands; **JAMES T. GILES**, Judge of the United States District Court for the Eastern District of Pennsylvania, Sitting by Designation; and **JULIO A. BRADY**, Judge of the Territorial Court of the Virgin Islands, St. Croix Division, Virgin Islands, Sitting by Designation.

APPEARANCES:

Leslie Payton, Esq.
Territorial Public Defender
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Attorney for Appellant

Elliot M. Davis, Esq., Asst. Atty. General
V.I. Department of Justice
8050 Kronprindens Gade
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Attorney for Appellee

ORDER

This matter is before the Court on appeal from the Territorial Court of the Virgin Islands, having been submitted on the briefs without oral argument¹. Appellant challenges the Territorial Court's acceptance of appellant's plea of guilty. After due consideration,

IT IS on this 11 day of April, 1994, hereby **ORDERED** that the above-captioned appeal is **DISMISSED** for lack of jurisdiction².

FOR THE COURT:

_____/s/_____
THOMAS K. MOORE, CHIEF JUDGE
DISTRICT COURT OF THE VIRGIN ISLANDS

A T T E S T:
ORINN F. ARNOLD
Clerk of the Court

1. Appellant inaccurately relies on *North Carolina v. Alford*, 400 U.S. 25 (1970), which holds that if a plea is given with an assertion of innocence, without more such as a record evidencing guilt, the plea may be invalid. In doing so, appellant mischaracterizes *Alford's* holding and his own plea of guilty, which was offered voluntarily without an assertion of innocence and in consideration of the strong evidence of appellant's guilt. See Appendix for Appellant at 37-39.

2. Appellant's motion to amend his brief is therefore denied as moot.

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BY: _____
Deputy Clerk

Copies to: Leslie Payton, Esq., Territorial Public Defender
Elliot M. Davis, Esq., Asst. Atty. General

Verne A. Hodge, Presiding Judge of the Territorial
Court
Lori Gilmore, Esq.
C. Francis